

NCLBA UPDATE: April 11, 2002

Memorandum

To: Superintendents, Principals, and School Board Chairs
From: Ray McNulty, Commissioner; H. "Bud" Meyers, Deputy Commissioner for Standards and Assessment
Re: Update on Alignment of State and Federal Accountability Systems in the Context of the No Child Left Behind Act (NCLBA)
Date: April 11, 2002

Introduction

This is our second communication with you concerning the potential impact on Vermont of the No Child Left Behind Act (NCLBA) of 2002. It is focused on several issues relating to the alignment of the state and federal accountability systems. We welcome your comments and hope you will participate in discussions on state and local levels as we learn more and decisions are made on these and other NCLBA matters in the coming months. The Department's program and legal staff have reviewed several issues following the accountability presentation and discussion at the March 19th State Board meeting. The substance of this memorandum was shared with the State Board at its April 9th meeting.

I. Actions on Vermont's 38 Priority Schools Identified for Technical Assistance Based on Student Performance

A. The 28 Title I Schools Identified before the Passage of NCLBA

The new federal law is clear that Title I schools that had been identified for two years prior to the date of enactment of NCLBA (January 8, 2002), must offer supplemental services, school choice (unless prohibited by state law), and continue to receive technical assistance for two more years. The 28 Title I schools are in this category. Because NCLBA brings these significant responsibilities to the 28 schools and their supervisory unions – all of which should be implemented in SY 2002-2003 – we are beginning to take the critical steps needed to develop the state's capacity to support supervisory unions and schools in meeting them.

B. Supplemental Services and School Choice for the 28 Schools

Given that the NCLBA supplemental services requirement applies to the 28 schools in SY 2002-2003, it is essential that Department staff address their implementation right away. To that end, we will convene a departmental committee to identify needed work and a timetable, and to invite the participation of non-departmental members as required by NCLBA. In relation to the NCLBA school choice requirements, the Department will – based on our lawyers' interpretation of Vermont law – issue guidance on the extent to which the choice provision applies to the 28 schools prior to our planned NCLBA discussion meetings on May 6 and 8.

Once again, these meetings are to be held in Burlington at the Radisson on May 6; and at the Killington Grand Hotel on May 8. Information will be mailed within the week.

C. The 10 Non-Title I Schools

Because they were not receiving Title I funds, NCLBA does not speak to the accountability status of these schools. The question arises, therefore, what action the Commissioner should take regarding them under Vermont's Accountability System Based on Student Performance, authorized by 16 V. S. A. §165 (b), and described in Rules 2500 – 2585. The statute and rules require the Commissioner to determine this fall whether Vermont's schools are making "insufficient progress" on assessments, and to identify them to receive two years of technical assistance if they are not. Since the State's method of determining sufficient progress may change under new federal guidelines the 10 schools will continue their status as identified priority schools. Their status will continue while new accountability rules are adopted and implemented (see below), and until the baseline accountability report, required under NCLBA, is issued this fall.

II. Strategy and Timing of Aligning State and Federal Accountability Systems

A. Proposed Amendment of the Equal Educational Opportunity Act

Because NCLBA stipulates new assessment and accountability requirements, Department program and legal staff have recommended to the Commissioner that it is not advisable to implement the state accountability system – as currently outlined in the State Board rules – at this time. Further, they recommend that it would be both prudent and effective – in order to minimize confusion and make a reasonable transition to the new accountability system as outlined in NCLBA – to take the action necessary to harmonize state and federal accountability requirements.

We are proposing to amend the Equal Educational Opportunity Act by adding 16 V. S. A. §165 (f), which would give the State Board the authority – notwithstanding existing law or rules – to adopt rules necessary to align Vermont's state accountability system with the requirements of NCLBA. Action on this amendment proposal will be taken through either the current Omnibus bill or another appropriate piece of legislation.

B. Adoption of Revised Accountability Rules

Another key element in the alignment process will be for the Department and State Board to propose and for the Board to adopt – after public comment – revised accountability rules that apply to all schools and that meet both state and federal law. (NCLBA specifically allows consequences authorized by state law to apply to Title I schools that do not make adequate yearly progress.) It is essential that this process – if it is to be completed this fall – begin at the earliest practical time. We intend to initiate the rulemaking process at the June Board meeting, and to have new rules in place when the baseline accountability results under NCLBA are publicly released in the fall. Our timetable and plan for this undertaking must be submitted to the U.S. Department of Education as part of our State Plan, which is due by May 28, 2002.

III. Supervisory Unions under State and Federal Law

A. Identification of Supervisory Unions for the 28 Title I Schools

Department staff has recommended to the Commissioner that these supervisory unions not be identified for technical assistance because Vermont did not have a formal operational definition of how they could be identified before NCLBA was passed. The fall 2002 baseline accountability report will include baseline accountability profiles for all schools and supervisory unions. As could any Vermont school (other than the 28 Title I schools already identified), any supervisory union – depending on the academic results of their schools and subgroups in those schools (defined by income, language proficiency, ethnicity, and special education) – could be identified under NCLBA for the first time in 2004.

B. Responsibilities of Supervisory Unions in relation to the 28 Identified Priority Schools and in the Future under NCLBA

Supervisory unions have important new responsibilities under NCLBA in relation to the 28 schools, including the peer review of school improvement plans, parental notification about school choice and supplemental services, and the provision of technical assistance. We are in agreement with the recommendation of the Policy Advisory Committee that critical conversations be held with all interested parties (e.g., representatives of the Vermont Superintendents Association, the Vermont Principals' Association, and the Vermont School Boards Association), focused on deepening the understanding – and enabling the implementation – of these responsibilities.